(3)

BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WP- 1875 /2005(SB)

Service Matter

PETITIONER : M.P. Rathore aged about 50 years S/o Rupnarayan R/o Laxmipur, Po. & Distt : Raigarh (CG) Revenue Inspector, Raigarh (urban)

P.R. No. 1743/05 A.O. for K.K.
Presented by Sh. ...
dated 20/09/05

VERSUS

RESPONDENTS : 1. State of Chhattisgarh through Collector, Raigarh, Po. & Distt : Raigarh Chhattisgarh.

2. Shri S.K. Dewangon, Deputy Collector Inquiry Officer, Raigarh, (CG)

Petition under article 226/227 of the Constitution of India – For issuance of a writ of mandamus and certiorari and any other writ/direction/order.

(64)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WP(S)/1875/05... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	11-5-2005 Shri B.R. Ghosh, counsel for the petitioner. Shri Bhaskar Pyasi, Panel Lawyer for the State/respondent No.1. Heard both the counsel. The petitioner, who is the Revenue Inspector in the Revenue Department, Raigarh, has preferred this writ petition and he has prayed for quashment of the charge sheet Annexure-P/1 dated 22-6-2004 and the Collector, Raigarh be directed to change the Enquiry Officer and de novo enquiry be directed to be initiated. Learned counsel for the petitioner submitted that the charge sheet has been served upon the petitioner with the allegations that the petitioner was instrumental in allotment of residential plot under Rajeev Gandhi Aashraya Yogna in favour of Rajesh Kumar Rathore by preparing wrong report and concealing certain information and respondent No.2 S. K. Dewangan, Deputy Collector, is the Enquiry Officer. The petitioner could not appear before the enquiry officer on 16-2-2005 due to the marriage of son and daughter and for that purpose the petitioner applied for adjournment in advance, but that was not allowed and by rejecting the prayer of the petitioner, the enquiry officer has proceeded ex-parte and he is biased, therefore, enquiry officer should be changed. Learned counsel further submitted that even the enquiry cannot be proceeded against the petitioner for the reason that regarding allotment of the said plot Shri Rajesh Kumar Rathore has filed writ petition No.517/2005 before this Court and stay has been grathed in favour of the petitioner, therefore,	

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मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the matter is subjudice, as such enquiry cannot be proceeded on the same ground till the said writ petition is decided.

From perusal of the petition it does not appear that the petitioner has applied for setting aside ex-parte order before the enquiry officer or the petitioner has moved the enquiry officer to stay the enquiry on the ground that subject matter of the enquiry is subjudice before the High Court. It has also not been mentioned in the petition that the petitioner has approached the Higher Officer regarding bias attitude of the enquiry officer for changing enquiry officer.

In the circumstances, at this stage, the petitioner has not been able to make out a case for interference by this Court. However, the petitioner is at liberty to move before the Collector for change of enquiry officer on the ground of bias. As far as stay of enquiry is concerned, the petitioner is entitled to move before the enquiry officer for staying the enquiry on the ground that the matter is subjudice before the High Court. The petitioner can also move an application for setting aside ex-parte order against him and in turn on such application by the petitioner the enquiry officer and the Collector to decide the same in accordance with law. The writ petition is disposed of in terms of the above.

Consequently, M.(W.)P No.1450/2005, I.A. Nos.3521/2005 and 3522/2005 also stand disposed of.

C.C. as per Rules.

Sd/-
L.C.BHADOO
Judge

Barve

16.5.05 16.5.05